

REMARKS/ARGUMENTS

1. Summary of the Office Action

Reconsideration of the present application is respectfully requested. The following remarks are responsive to the Office Action mailed March 15, 2004. Claims 1-15 are pending and claims 1 and 5 have been amended.

Claims 1-15 stand rejected under § 103(a) as allegedly being obvious by U.S. patent no. 5,478,990 (hereinafter "Montanari") in view of U.S. patent no. 6,581,829 (hereinafter "Kim"). Claims 1-15 remain

2. Response to § 103 Rejections

Applicants respectfully traverse this rejection for the reasons set out below, and ask the Examiner for reconsideration.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claim 1 includes the following limitations:

A method of communicating agricultural product information to a user, the method including:

receiving at a management information system a request for real-time agricultural product information collected along a chain of custody of the agricultural

product, the request being made while the agricultural product is within the chain of custody and including an agricultural product identifier;

accessing at least one agricultural product record, identified using the agricultural product identifier, at the management information system, the at least one agricultural product record including agricultural product data;

processing the agricultural product data to generate a report of agricultural product information including metrics pertaining to the agricultural product; and

communicating the report to the user responsive to the request for the real-time agricultural product information.

(Emphasis added)

THE PRIOR ART REFERENCES DO NOT TEACH OR SUGGEST ALL CLAIM LIMITATIONS, WHEN CONSIDERED SINGULARLY OR IN COMBINATION.

Montanari discloses tracking food products, especially meat products, as they are divided up and distributed during distribution. A particular concern of Montanari is the ability to locate all physically related food products (e.g., beef liver and ground beef from the same animal) in the event one of the related food products is contaminated. In other words, Montanari provides a method of animal identification that allows for each animal's identity with respect to its constituent parts to be maintained throughout the production and distribution process.

At best, Montanari may supply a user with bits of data, mostly qualitative, concerning vaccinations, feed types, or weights during animal processing. However, Montanari does not disclose or teach the limitations, as in claim 1, of a user making the request for real-time agricultural product information collected along a chain of custody of the agricultural product, the request being made while the agricultural product is within the chain of custody, nor teach or discuss processing the agricultural product data to generate a report of agricultural product information including metrics pertaining to the agricultural product; and communicating the report to the user responsive to the request for the real-time agricultural product information. Because

Montanari does not teach or suggest these limitations, it does not render the present claims obvious.

Combining Montanari with the teachings of Kim does not render the present claims obvious. Adding what is taught in Kim does not cure the deficiencies of Montanari. Kim discusses a product recommendation system and method using product bar codes (ES codes). A consumer can make a purchasing decision based on accessing the background of the product using a scanner and the product bar code. Kim discusses a user accessing the product information after the product is introduced into the marketplace. In other words, Kim, like Montanari, does not teach or discuss a user making the request for real-time agricultural product information collected along a chain of custody of the agricultural product, the request being made while the agricultural product is within the chain of custody.

Further, the type of data received by a consumer is generally very qualitative, and if quantitative, it is a scaled rating from an undisclosed source or a code for a product attribute (Col. 4 Ln. 25-63). For example, a consumer may receive a message in response to a quality of a product of “very good,” “just adequate,” “no good,” “YES,” “NO,” “MAYBE,” or “2 (livestock products)” (Col. 3 Ln. 59-65). Consequently, Kim does not disclose what is also missing from Montanari, the processing the agricultural product data to generate a report of agricultural product information including metrics pertaining to the agricultural product; and communicating the report to the user responsive to the request for the real-time agricultural product information. As defined by plain meaning and in the specification, metrics are actual measurements related to the product and not a qualitative analysis done by a third party or codes for product attributes.

Therefore, claim 1 is patentable over Montanari and Kim because neither reference alone or in combination teaches each and every element of claim 1. Because dependent claims are deemed to include all the limitations of the claims from which they depend, the above remarks also address dependent claims 2-15 and they are also patentable over Montanari and Kim.

In light of the above, Applicants respectfully submit that the rejection under 35 U.S.C. § 103 has been overcome, and withdrawal of this rejection is therefore respectfully requested.

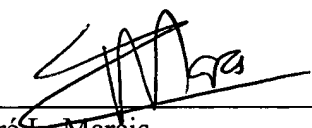
3. Conclusion

Having tendered the above remarks and amended the claims as indicated herein, Applicants respectfully submit that all rejections have been addressed and that the claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact André Marais at (408) 947-8200 ext. 204.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 09/15/, 2004



André L. Marais
Reg. No. 48,095

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026
(408) 947-8200